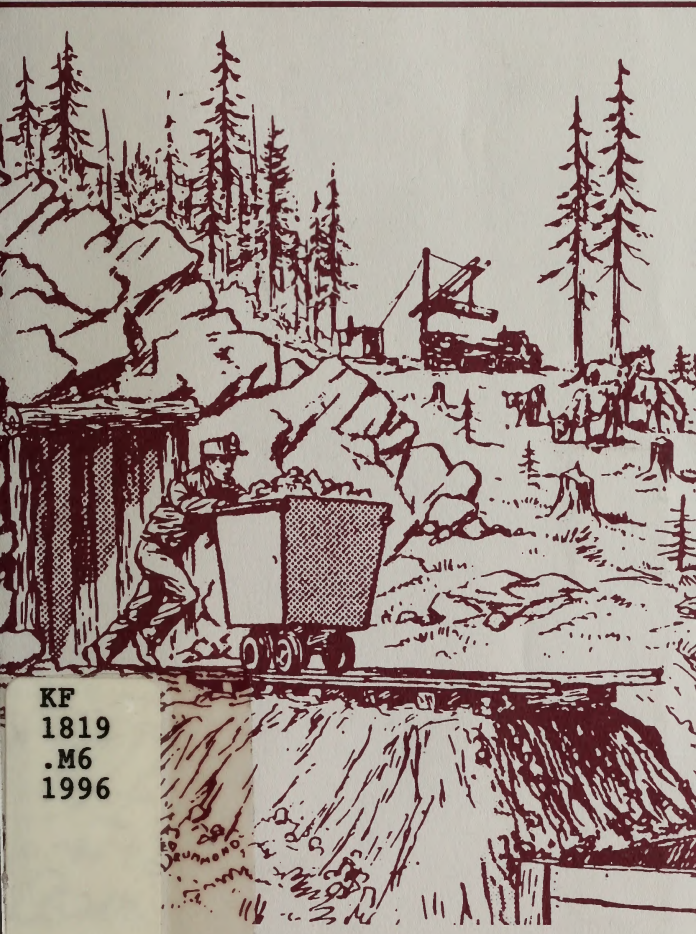
BLM LIBRARY
88055099

nterior
ient

Mining Claims and Sites on Federal Lands



KF
1819
.M6
1996

~~3800~~ ~~U.S. Bureau of Land~~
~~BOX I~~ ~~MINING CLAIMS AND~~
~~#4~~ ~~SITES ON FEDERAL~~
~~LANDS~~
~~27000306~~

ER'S CARD

OFFICE

DATE RETURNED

(Continued on reverse)

nd sites on

KF 1819 .M6 1996

Mining claims and sites on federal lands

#35312041 88055099 1819 mc 199

The
Bureau of Land Management
is responsible for the balanced management of the public lands and resources and their various values so that they are considered in a combination that will best serve the needs of the American people.

Management is based upon the principles of multiple use and sustained yield — a combination of uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources. These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness, and natural scenic, scientific, and cultural values.

Bureau of Land Management
California State Office
Library

BLM LIBRARY
BLDG 50, ST-150A
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, COLORADO 80225

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

The
Federal Land Policy and Management Act of 1976
launched a new era for public land management in America's third century.
The Act provides that the public lands remain under the stewardship of the Federal Government, unless disposal is in the national interest, and that their resources be managed under a multiple-use concept that will best meet present and future needs of the American people.
This information pamphlet concerns one facet of one of these multiple uses: activities under the Mining Law of 1872, as amended.

April 1996
BLM-WO-GI-91-002-4130

CONTENTS

Page

INTRODUCTION 4

EXPLANATION OF "DISCOVERY" 5

Locatable Minerals 5

Discovery" of a Valuable Mineral Deposit 6

EXPLANATION OF "LOCATION" 8

Mining Claims and Sites 8

Federal Lands Open to Mining 11

Staking a Mining Claim or Site 12

Claimant's Rights 13

RECORDING A MINING CLAIM OR SITE 14

MAINTENANCE OF A MINING CLAIM OR SITE 17

Annual Assessment Work 18

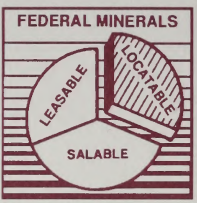
Surface Management 20

MINERAL PATENTS 24

BLM LAND AND MINERAL RECORDS 25

MORE INFORMATION 26

INTRODUCTION



There are three basic types of minerals on Federal lands: locatable, leasable, and salable. These minerals have been defined by Federal laws, regulations, and legal decisions. This pamphlet discusses only locatable minerals.

The major Federal law governing locatable minerals is the Mining Law of 1872 (May 10, 1872), as amended (30 U.S.C. 22-54). This law provides citizens of the United States the opportunity to explore for, discover, and purchase certain valuable mineral deposits on those Federal lands that remain open for that purpose. These minerals include metallic minerals and certain nonmetallic minerals. The law also sets general standards and guidelines for claiming the possessory rights to valuable minerals discovered during exploration. Other provisions provide for the enactment of State laws that are consistent with Federal law. Therefore, most States have enacted laws that prescribe the manner of locating and recording mining claims, tunnel sites, and mill sites on Federal lands within their boundaries.

This pamphlet is a brief introduction to the locatable minerals program on Federal lands. The last section of this booklet provides sources for finding more information on the following topics: (1) geology and mineral resources of a particular area, (2) mining and milling techniques, (3) surface protection and reclamation requirements, and (4) other Federal and State legal requirements.

The Mining Law of 1872, as amended, has five elements: (1) **discovery** of a valuable mineral deposit, (2) **location** of mining claims and sites, (3) **recordation** of mining claims and sites, (4) **maintenance** (**annual work/surface management**) of mining claims and sites, and (5) **mineral patents**. The Mining Law Administration program managed by the Bureau of Land Management (BLM) involves primarily the last three elements: recordation, maintenance (annual work/surface management), and mineral patents. Surface management on

National Forest System lands is administered by the Forest Service, Department of Agriculture. The activities associated with the first two elements are carried out by the claimant.

EXPLANATION OF "DISCOVERY"

Locatable Minerals

Locatable minerals include both metallic minerals (gold, silver, lead, etc.) and nonmetallic minerals (fluor spar, asbestos, mica, etc.). It is very difficult to prepare a complete list of locatable minerals because the history of the law has resulted in a definition of minerals that includes economics. Also, certain minerals have been formally excluded from the operation of the law. Starting in 1873, the Department of the Interior began to define locatable minerals as those minerals that make the land more valuable because of their existence, are recognized as a mineral by the standard experts, and are not subject to disposal under some other law. Locatable type minerals on most lands acquired (purchased or received) by the United States and on Indian reservations are leasable. Therefore, it is easier to list minerals that are not locatable because of the complexities listed above.

Since 1955, **common varieties** of sand, gravel, stone, pumice, pumicite, cinders, and ordinary clay are salable, not locatable. Use of salable minerals requires either a sales contract or a free use permit. Disposals of salable minerals from BLM-administered lands are regulated by Title 43, Code of Federal Regulations (CFR), Part 3600. Sales are at the estimated fair market value. A free use permit may be issued to a Government agency or a nonprofit organization. Disposals from National Forest System lands are regulated by Title 36 CFR Subpart C, 228.40. On National Forest System lands, you may need a special use permit from the Forest Service.

Uncommon varieties of salable type minerals may be locatable provided that the deposits meet certain tests created by various judicial and administrative decisions.

Federal mineral examiners determine uncommon varieties on a case-by-case basis.

Since 1963, **petrified wood** has not been locatable under the mining laws. Hobbyists may remove small amounts of noncommercial use free of charge. The Federal Government may sell larger amounts of petrified wood under applicable regulations (see 43 CFR 3620).

Since 1920, the Federal Government has leased fuels and certain other minerals (see 43 CFR 3000-3590). **Leasable minerals** today include oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semi-solid bitumen, bituminous rock phosphate, and coal. In Louisiana and New Mexico, sulphur is leasable.

"Discovery" of a Valuable Mineral Deposit

Federal statutes do not describe what constitutes a valuable mineral deposit. However, the Government adopted an "economic" definition of locatable minerals that has resulted in a test that makes use of the concept of an economic ore body. Consequently, several judicial and administrative decisions have established the "prudent man rule" of discovery. A Land Decision of the Department of the Interior in 1894, Castle v. Womble, 19 LD 455 (1894), states: "...where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success in developing a valuable mine, the requirements of the statutes have been met."

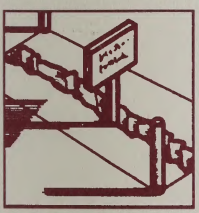
The Supreme Court approved this definition in Chrisman v. Miller, 197 US 313 (1905). In 1968 the Supreme Court approved a parallel concept, the marketability test, in U.S. v. Coleman, 290 US 602-603 (1968). The marketability test adds to the prudent man rule and considers economics. It requires that the claimant show a reasonable prospect of selling minerals from a claim or a group of claims. Its use by the Department of the Interior since 1933 is based on the Solicitor's opinion in Layman v. Ellis, 52 LD 714 (1929). This decision involved widespread nonmetallic minerals. The Solicitor noted a need for a distinct showing that the mineral could be minded,

removed, and marketed at a profit. The Interior Board of Land Appeals ruled in Pacific Coast Molybdenum, 90 ID 352 (1983) that proof of past or present profit is not a requirement. However, a profit must be a reasonable likelihood.

Other Departmental decisions require a discovery on each claim, based on an actual physical exposure of the mineral deposit within the claim boundaries. Jefferson-Montana Copper Mines Co., 41 LD 320 (1912), establishes the full test for a lode claim: (1) a physical exposure of the mineral deposit, (2) evidence that the deposit contains a valuable mineral, and (3) engineering and economic data showing a possible profit. For placer claims, in addition to proof of a discovery of a pay streak, each 10 acres must be shown to be mineral-in-character. Mineral-in-character is based on geologic inference and marketability, not necessarily on an actual exposure. It is used to show the extent of the discovery on the claim(s), but cannot be used alone.

EXPLANATION OF "LOCATION"

Mining Claims and Sites



Anyone who is a citizen of the United States or has declared an intention to become a citizen may locate a mining claim. A corporation organized under State laws may also locate a mining claim. The Government considers corporations to have the same standing as a citizen. A claim held by an alien is voidable only by the U.S. Government, not another individual. There is no limit to the number of claims and sites that may be held by a claimant.

A mining claim is a particular parcel of Federal land, valuable for a specific mineral deposit or deposits. It is a parcel for which an individual has asserted a right of possession. The right is restricted to the extraction and development of a mineral deposit. The rights granted by a mining claim are valid against a challenge by the United States and other claimants only after the discovery of a

valuable mineral deposit. There are two types of mining claims, lode and placer. There are two other types of mineral entries, mill sites and tunnel sites.

Lode Claims: Deposits subject to lode claims include classic veins or lodes having well-defined boundaries. They also include other rock in-place bearing valuable minerals and may be broad zones of mineralized rock. Examples include quartz or other veins bearing gold or other metallic minerals and large volume but low-grade disseminated metallic deposits. Lode claims are usually described as parallelograms with the longer side lines parallel to the vein or lode (see Figure 1). Descriptions are by metes and bounds surveys (giving length and direction of each boundary line). Federal statute limits their size to a maximum of 1,500 feet in length along the vein or lodge. Their width is a maximum of 600 feet, 300 feet on either side of the centerline of the vein or lode. The end lines of the lode claim must be parallel to qualify for underground extralateral rights. Extralateral rights involve the rights to minerals that extend at depth beyond the vertical boundaries of the claim.

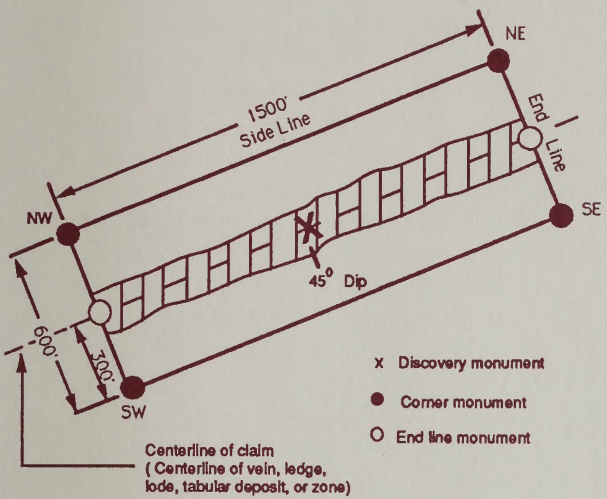
Placer Claims: Mineral deposits subject to placer claims include all those deposits not subject to lode claims. Originally, these included only deposits of unconsolidated materials, such as sand and gravel, containing free gold or other minerals. By Congressional acts and judicial interpretations, many nonmetallic bedded or layered deposits, such as gypsum and high calcium limestone, are also considered placer deposits.

Placer claims, where practicable, are located by legal subdivision (for example: the E 1/2 NE 1/3 NE 1/4, Section 2, Township 10 South, Range 21 East, Mount Diablo Meridian). The maximum size of a placer claim is 20 acres per locator (see Figure 2). An association of two locators may locate 40 acres, and three may locate 60 acres, etc. The maximum area of an association placer claim is 160 acres for eight or more persons. However, the maximum size of an association placer claim in Alaska is limited to 40 acres under State law.

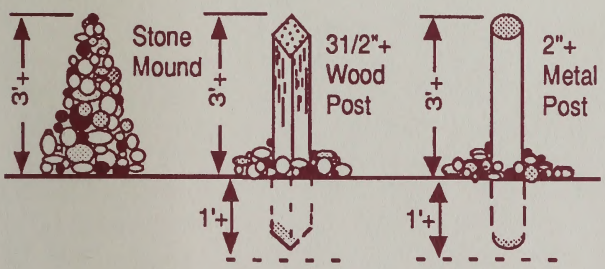
The maximum size of a placer claim for corporations is 20 acres per claim. Corporations may not locate association placer claims unless they are in association with other private individuals or other corporations as co-locators.

Figure 1. Example of Methods of Monumenting Mining Claims in California

Drawing of an ideal lode mining claim (Metes and Bound survey method) in California (Cal. Pub. Res. Code, Chapt. 4, Sec. 2316).



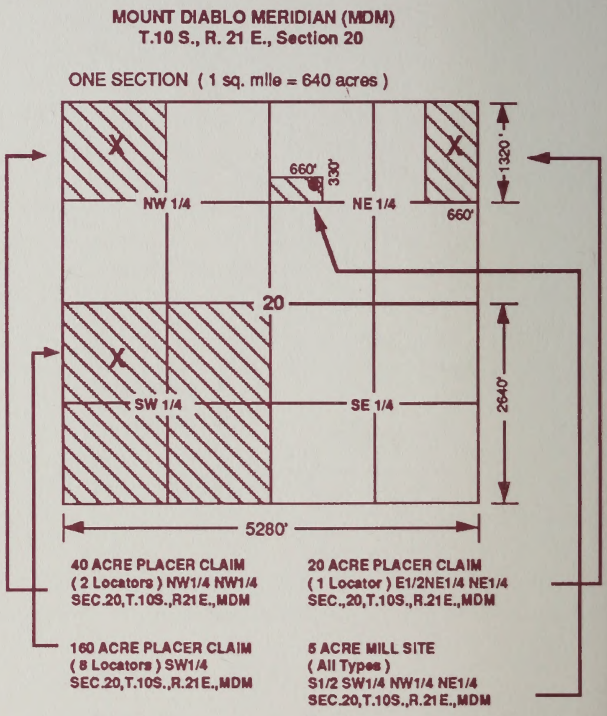
Most State laws require conspicuous and substantial monuments for all types of claims and sites.



NOTE: Other states have other requirements for monuments. Other monuments can be used in California as long as they are conspicuous and substantial. However, it is BLM policy to not use perforated or uncapped pipe as a monument.

Figure 2. Methods of Describing Placer Mining Claims and Mill Sites

Drawing of a section of land showing types of placer mining claims (PMC) and a mill site (MS). The legal description method is based on the U.S. Public Land Survey.



Mill Sites: A mill site must be located on nonmineral land. Its purpose is to either (1) support a lode or placer mining claim operation or (2) support itself independent of any particular claim. A mill site must include the erection of a mill or reduction works and/or may include other uses reasonably incident to the support of a mining operation. Descriptions of mill sites are by metes and bounds surveys or legal subdivision. The maximum size of a mill site is 5 acres (see Figure 2).

Tunnel Sites: A tunnel site is where a tunnel is run to develop a vein or lode. It may also be used for the discovery of unknown veins or lodes. To stake a tunnel site, two stakes are placed up to 3,000 feet apart on the line of the proposed tunnel. Recordation is the same as a lode claim. Some States require additional centerline stakes (for example, in Nevada centerline stakes must be placed at 300-foot intervals).

An individual may locate lode claims to cover any or all blind (not known to exist) veins or lodes intersected by the tunnel. The maximum distance these lode claims may exist is 1,500 feet on either side of the centerline of the tunnel. This, in essence, gives the mining claimant the right to prospect an area 3,000 feet wide and 3,000 feet long. Any mining claim located for a blind lode discovered while driving a tunnel relates back in time to the date of the location of the tunnel site.

Federal Lands Open to Mining

There are federally administered lands in 19 States where you may locate a mining claim or site. These States are Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. In these States, the BLM manages the surface of public lands and the Forest Service manages the surface of National Forest System lands. The BLM is responsible for the subsurface on both public lands and National Forest System lands.

You may prospect and locate claims and sites on lands open to mineral entry. Claims may not be staked in areas closed to mineral entry by a special act of Congress,

regulation, or public land order. These areas are withdrawn from the operation of the mining laws.

Areas withdrawn from location of mining claims include National Parks, National Monuments, Indian reservations, most reclamation projects, military reservations, scientific testing areas, most wildlife protection areas (such as Federal wildlife refuges), and lands withdrawn from mineral entry for other reasons. Lands withdrawn for power development may be subject to mining location and entry only under certain conditions. Mining claims may not be located on lands that have been (1) designated by Congress as part of the National Wilderness Preservation System, (2) designated as a wild portion of a Wild and Scenic River, or (3) withdrawn by Congress for study as a Wild and Scenic River. There is usually a 1/4-mile buffer zone withdrawn from location of mining claims on either side of a river while the river is being studied for inclusion in the Wild and Scenic Rivers System. Additions to the National Wilderness Preservation System are withdrawn to mining claim location at the time of designation by Congress. Mining activities are permitted only on those mining claims that can show proof of a discovery either (1) by December 31, 1983, or (2) on the date of designation as wilderness by Congress.

Staking a Mining Claim or Site

Federal law simply specifies that claim boundaries must be distinctly and clearly marked to be readily identifiable on the ground. The mining laws allow States to establish their own laws regarding the manner in which mining claims and sites are located. Most States have statutes and regulations adding to the Mining Law of 1872, as amended, concerning the actual staking and recording of mining claims. Staking requirements include the placement, size, and acceptable materials for a corner post or a discovery monument. Check with the proper State agency(s) before locating claims. State agencies may include the State geological survey, the State mineral resource department, or the State lands commission.

Generally, staking a mining claim includes (1) erecting corner posts or monuments and (2) posting a notice of location on a post or monument in a conspicuous place

(see Figures 1 and 2). The conspicuous place on the claim is usually the point of discovery. Several States also require side-line or end-line posts or monuments for claims. Claims and sites described by legal subdivision in some States do not require the erection of corner monuments (see Figure 2). However, all claims and sites must have a location (sites) or discovery (claims) monument. Be sure to check what the law requires in the State where the claims and sites are to be located.

For a specific tract of land, check the official land records at the BLM State or District Office responsible for administering the land area. Rather than looking randomly through the records for lands open to location, it is better to restrict your search to a general area of interest. Topographic map(s) of the area (published by the U.S. Geological Survey) provides the legal description (meridian, township, range, section, lot) of such lands. Visit the local BLM office or BLM State Office and check maps, the BLM Master Title Plats, mining claim records, and files. Ultimately, it is up to the locator to determine if there are prior existing claims on the ground.

Claimant's Rights

If a claim or site meets all the Federal and State requirements, the claimant has a possessory right to develop and extract the minerals. However, the claim or site cannot be used for other purposes. The claimant has the right to use so much of the surface of the claim or site as is reasonably necessary for mining and milling purposes, including (1) access across federally managed surface to and from the claim, (2) use of as much of the timber on the claim as is necessary for the mining operation, and (3) construction of fences and gates to protect the immediate area of operations and equipment. Also allowed are temporary and permanent structures for storing equipment, housing for full-time employees, and testing and processing facilities. See the approval requirements for structures and occupancy in the Surface Management section of this pamphlet.

Mining claims and sites are considered real property. The interests in them and associated rights may be bought, sold, transferred, leased, rented, willed, or inherited.

RECORDING A MINING CLAIM OR SITE

Claims and sites must be recorded with both the county and the proper BLM STATE OFFICE. In Alaska, claims may also be recorded with the BLM office in Fairbanks.

County: State laws usually require filing the original location notice or certificate in the county recorder's or the county clerk's office. The proper county is generally the one in which the claim is located. Each State has its own requirement for when a location notice must be filed and recorded. This period is usually within 90 days of staking the claim on the ground. However, some States require earlier filings, such as within 60 days or 30 days. Other States have different time frames for different types of claims.

Location notices contain the following basic information: (1) the date of location on the ground, (2) the name of the locator(s), (3) the name of the claim or site, (4) the type of claim or site, (5) the acreage claimed, and (6) a description of the parcel on the ground. The description may be either a legal description (by parts of the section, township, range, and meridian) or a metes and bounds survey (connection of corners by distance and direction). For mining claims, metes and bonds surveys are tied to the discovery point. The discovery point should be tied to some well-known, permanent object. Examples of permanent objects include an existing cadastral survey monument, a benchmark, a bridge, a fork of a stream, or a road intersection.

Local printing companies, office supply stores, stationery stores, and BLM offices are possible sources for obtaining location notice and certificate forms.

BLM: The Federal Land Policy and Management Act of 1976 (FLPMA) requires claimants to file a copy of the official record of the notice or certificate of location with the BLM. This includes any amendments (i.e., changes) in claim boundaries and any changes in ownership. FLPMA (Sec. 314) also requires a map of the claim/site

boundaries to be filed with the BLM. Other documents filed under State law must also accompany the copy of the official record filed with the BLM. Even if State law does not require recordation, the owner must file proper documents with the BLM. Federal recording regulations, 43 CFR 3833, specify the information required. These requirements may be obtained from BLM State or District Offices. There is a $10 nonrefundable service charge to record each new location. The BLM considers a claim or site abandoned and void if the claimant fails to record with the BLM within the prescribed period. The time frame for filing is within 90 days from the date of location or date of change. Use a separate location notice for each claim/site or the claim will be deemed abandoned.

Amendments and Transfers of Interest: Interest in a properly recorded mining claim or site may be transferred in its entirety or in part. Generally, a quitclaim deed or other type of recordable conveyance document (this is governed by State law) is needed for this transfer of interest. An amended location notice is proper to show changes in the description of a claim or site but is not proper for a transfer of ownership. An amended location notice may accompany the quitclaim deed. File transfer and amendment documents with the proper county office and BLM STATE OFFICE. File transfer documents within 60 days after the transfer. The BLM has a $5 nonrefundable service charge to file amendments and transfers of ownership for each claim or site. Failure to file these documents, in the case of any action or contest initiated by the United States, results in no notification and no defense against failure to be properly served.

Abandonment or Relinquishment: Upon abandonment of a claim or site or relinquishment to the Federal Government, file a notice with the proper county office and the BLM STATE OFFICE. No particular form is required; a letter is acceptable. Be sure to include the claim or site name and the BLM serial number. There is no charge to file these documents.

THE PROPER BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT, except for the BLM Fairbanks Support Center in Alaska, which is an acceptable filing office (see Figure 3.) See Figure 4 for filing fees.

Figure 3. List of the BLM and Forest Service Offices Where mining claim and Site Documents May be Filed.

BLM	FOREST SERVICE
State Office • Location Notice • Amendment or Transfer of Interest • Notice of Abandonment or Relinquishment • Affidavit of Assessment Work • Notice of Intention to Hold • Petition for Deferment of Assessment Work • Patent Application	**Regional Office** • None, Recordation and patent documents are only filed with the BLM. **Forest Supervisor's Office** • None, On National Forest lands notice and plans of operations are filed in the Ranger District Office.
District Office • Notice of Intent to Operate • Plan of Operations	**Ranger District Office** • Notice of Intent • Plan of Operation
Resource Area Office • In many States the District Office has delegated acceptance of a notice or plan to the Resource Area Office. Call the District Office to find out where to file notices or plans.	

NOTE: In some States the BLM, the Forest Service, and the State may have signed a memorandum of understanding or a cooperative agreement. The agreement may allow a State agency or a county department to be the lead for approving a plan of operations on Federal lands. The operator would submit a plan of operations to the State or county agency, rather than to the BLM or the Forest Service. Contact the appropriate BLM State Office or Forest Service Regional Office to determine the lead agency in a particular State.

Figure 4. List of Fees for Filing Mining claim and Site Documents with the BLM (effective as of January 3, 1989).

New Location Notice (per claim/site)	$ 10
Amendments/Transfer of Ownership (per claim/site)	$ 5
Affidavit of Annual Assessment Work (per claim/site)	$ 5
Notice of Intention to Hold (per claim/site)	$ 5
Petition for Deferment of Assessment Work (per petition)	$ 25
Mineral Patent Application (first claim)	$250
Filing for each additional claim/site in one patent application (per additional claim/site)	$ 50

MAINTENANCE OF A MINING CLAIM OR SITE

Since October 5, 1992 (Public Laws 102-381 and 103-66) only claimants having a legal interest in 10 or fewer mining claims and sites Nationwide and who also meet certain other requirements, may perform assess ment work and file evidence of assessment as described below. All other claimants must pay an annual fee of $100 per claim or site to the BLM. All claimants must either pay the required fees or file for a waiver from payment of the fees by each August 31 through and including August 31, 1998. Failure to file by August requires BLM to declare the claim or site null and void by operation of law. Mineral patent applicants who have been issued the first half of their mineral entry final certificate are exempt from payment of fees or perfor-mance of assessment work. See 43 CFR 3833.1-5 through 3833.1-7 for the terms and conditions of payment of the fees or the obtainment of a waiver from such payment.

Annual Assessment Work

To keep a possessory interest in the claim or site, the claimant must perform a minimum amount of labor or make improvements worth $100 each year. Assessment work is work or labor performed in good faith that tends to develop the claim and directly helps in the extraction of minerals. Geological, geophysical, and geochemical surveys may qualify as assessment work for a limited period. However, a requirement for use of these surveys is the filing of a detailed report, including basic findings. Most State laws require the annual filing of an affidavit of assessment work with the proper county. Also, FLPMA requires the filing of an affidavit of annual assessment work with both the local county office and the proper BLM STATE OFFICE.

Assessment work is not a requirement for owners of mill or tunnel sites. However, they must file a notice of intention to hold the site(s) with the BLM. For mill sites and tunnel sites, filing with the county is not required.

Performance of assessment work must be within a certain period referred to as the assessment year. The assessment year begins at noon, September 1. It ends at noon, September 1, of the next year (see 43 CFR 388.0-5{n}). Performance of assessment work need not occur during the first assessment year of location. However, for claims located between September 1 and December 31, the claimant must file a notice of intention to hold the claim with the BLM by December 30 of the following calendar year. The claimant must file either (1) a notice of intention to hold or (2) evidence of annual assessment work in the proper BLM State Office on or before December 30 of the calendar year following the calendar year of the location of the claim, mill site, or tunnel site.

There is no requirement for filing evidence of assessment work or a notice of intention to hold a claim upon issuance of the first half mineral entry final certificate for a mineral patent. However, these requirements are reinstated upon cancellation of the final certificate by the BLM or upon withdrawal of the application by the claimant.

A notice of intention to hold a claim or site is a letter or notice signed by the claimant(s) or their agent(s). It should include the BLM serial number assigned to each claim or site and any change in mailing address of the claimant(s). If used to notify the county and the BLM of an approved or pending petition for deferment of annual assessment work, it must include a reference to the decision on file with the BLM (by date granted and serial number) or the pending petition (by date of filing and serial number).

The BLM may grant a temporary deferment of assessment work under certain conditions (see 43 CFR 3852.1). These conditions concern denial of legal access to a mining claim or other legal impediments. The claimant must, therefore, initiate actions to gain access. Such a deferment may not exceed 1 year but may be renewed for an additional year upon request. There is no particular form for a petition for deferment of assessment work. The petition can be a letter to the BLM signed by at least one of the owners of the claim. It must fully explain the actions taken to initiate access and the legal obstacles preventing access. A copy of the notice to the public recorded with the county must accompany the petition. The petition should include the BLM mining claim serial number(s) and the assessment year to be deferred.

County: Each State has its own deadline for filing an affidavit of assessment work. Most States require filing within 30 to 90 days after the end of the assessment year (September 1). Therefore, it is important to check the State requirements for filing periods in the State in which the claim(s) is located.

BLM: Claimants must file with the BLM an identical copy of any of the above-mentioned documents filed with the county. Even if a State does not have a filing requirement, claimants must still file with the BLM. The deadline for filing with the BLM is December 30 (not December 31) of each calendar year following the calendar year of location. A nonrefundable $5 service charge for each claim and site must accompany the affidavit or notice. A nonrefundable $25 service charge must accompany a petition for deferment of assessment work.

The BLM considers a claim or site abandoned and void if the claimant fails to file these documents within the prescribed period. A determination of abandonment by the BLM voids the claim or site.

THE APPROPRIATE BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT, except for the BLM Fairbanks Support Center in Alaska, which is an acceptable filing office (see Figure 3). See Figure 4 for filing fees.

Surface Management

Most Federal agencies have regulations to protect the surface resources of the Federal lands during exploration and mining activities. Reclamation of disturbed sites is a requirement after completion of exploration and mining activities. Another requirement is the submission of a notice of a plan of operations before conducting any surface-disturbing activities, except for casual use activities. Also, most State governments have mining and reclamation requirements. To avoid duplication, several States have entered into cooperative agreements with Federal agencies. Operators should check with Federal and State agencies to determine the proper lead agency before submitting a notice of plan.

Forest Service: Exploration and mining activities on lands administered by the Forest Service are subject to the regulations of the Secretary of Agriculture in 36 CFR 228(A). These regulations require that anyone whose proposed operation could likely cause "significant disturbance of surface resources" must submit an operation plan. The operating plan should describe the nature of the proposed disturbance and steps to protect surface resources. It must describe steps proposed to reclaim the land after mining-related activities have stopped. Any proposed structures or occupancy must also be described. The plan must be approved by an authorized Forest Service officer. Miners wishing to prospect or locate claims or sites in National Forests should contact the local District Ranger concerning questions about operating plans.

BLM: Exploration and mining activities on BLM-administered land are subject to the regulations of the Secretary of the Interior in 43 CFR 3809 and for Wilderness Study Areas, 43 CFR 3802. These regulations require an operator to prevent unnecessary or undue degradation of the land. For activities other than casual use, they require the operator to submit either a notice or a plan of operations and a reclamation plan. A plan of operations and a reclamation plan are required where activities involve the surface disturbance of more than 5 acres. Also, Special Category Lands, as defined in 43 CFR 3809.1-4, always require a plan of operations. The plan of operations must include a description of the proposed activities, road access and construction, reclamation measures, time frames of non-operation, and a sketch or a map of the area to be disturbed, including all access routes. An environmental assessment (EA) or an environmental impact statement (EIS) must be prepared by the BLM or the claimant/operator prior to commencement of any surface-disturbing activities. A plan of operations must be approved by the BLM. Operations at the plan level may not commence until the plan is approved.

Five acres or less of surface disturbance usually requires a notice. The notice must describe the proposed activities, the location on the ground, the start-up date, road access and construction, if any, and reclamation measures. Receipt and review of a notice is not a Federal action; therefore, there is no requirement for the preparation of an EA or EIS. Approval by BLM is not required for a notice.

There is no requirement for notifying the BLM of casual use activities. Casual use activities are those that cause only negligible disturbance of the public lands and resources. For example, activities that do not involve the use of earth-moving equipment or explosives may be considered casual use.

Exploration and mining activities in BLM wilderness study areas (WSAs) are subject to regulations in 43 CFR 3802. The BLM Interim Management Policy and Guidelines for Lands Under Wilderness Review (BLM Handbook 8550-1, July 5, 1995) also gives rules concerning mineral activities in WSAs. The rules require a plan of operations for all activities other than what could be

considered casual use (see 43 CFR 3802.1-2). Reclamation is a requirement for all surface-disturbing activities in WSAs. Where required, reclamation must be completed to the point that mining activities are substantially unnoticeable by the time the Secretary of the Interior makes recommendations for wilderness designation to the President. Therefore, each BLM State Director has set a date for completion of reclamation in WSAs in that State. All recommendations of the Secretary of the Interior to the President on BLM-administered lands are to be made on or before October 20, 1991. However, not all States are involved in the wilderness study program.

Reclamation is a requirement following any surface-disturbing activity, even if the claim or site is declared abandoned and void by the BLM. It is also required if the claimant relinquishes the claim or site to the Federal Government. The BLM may require a reclamation bond or other financial security prior to approving a plan of operations.

Approval of plans of operations are usually at the local level. Therefore, the operator should contact the proper BLM District or Resource Area Office for questions concerning plans of operation (see Figure 3).

States: Operators should be aware that many States have their own mining and reclamation laws. Many also have their own environmental laws to regulate air and water pollution and use of hazardous materials. Some States, like California and Alaska, require a permit for use of suction dredges. Similarly, construction activities usually require meeting standards of a county code, as well as State public health and safety standards. Some States have entered into a memorandum of understanding or a cooperative agreement with the BLM and Forest Service. These agreements reduce the duplication by the operator and Federal and State agencies in enforcing rules. For these reasons, operators should inquire about State and local requirements before trying to mine on public lands and National Forest System lands.

Areas of Special Concern: The Federal Government maintains the right to manage the surface and surface resources on mining claims and sites located under the

Mining Law after July 23, 1955, and many claims located before that date (see 30 U.S.C. 612). This includes the use of the area for public recreational purposes that do not interfere with a mining activity.

The public has the right to cross mining claims for recreational and other purposes and to access Federal lands beyond the claim boundaries. For these reasons, claimants may not maintain locked gates across public access routes, unless a full-time attendant is available, and the locked gate is approved under a plan of operations. Under a plan of operations, approvals for locked gates may be given for the protection of an operator's equipment and facilities. These approvals usually restrict the operator to a fenced compound surrounding the immediate area of operations.

Claimants should not construct permanent structures or store equipment or mobile structures without prior approval of the authorized Federal official. Intermittent or casual mineral exploration and development do not normally justify the use of such structures.

The right of access to a claim across Federal lands does not mean that the mining claimant has a right to cause unnecessary or undue degradation of the resources. Vehicles used for exploration or mining purposes are not permitted in areas that are temporarily or permanently closed to vehicle use. For example, on lands administered by the BLM, in areas designated as closed to off-highway vehicle use, an approved plan of operations is required for new road construction and use of existing roads. The claimant is liable for damages if found responsible for unnecessary loss of or injury to property of the United States.

Issuance of a notice of trespass may occur if an unpatented claim or site is (1) used for a homesite, place of business, or for other purposes not reasonably related to mining or milling activities, (2) used for the mining and sale of leasable minerals or of mineral materials, such as common varieties of sand, gravel, or building stone, or (3) located on lands that for any reason have been withdrawn from location of mining claims after the effective date of withdrawal.

Mining claims and sites located on lands after the effective date of a withdrawal are null and void. No rights are associated with claims declared null and void by the BLM. However, a claim or site located before a withdrawal is in effect is considered a valid existing right. To have valid existing rights in this situation, a discovery (including an actual physical exposure) must have been made before the date of withdrawal. Individuals who disturb resources after the effective date of withdrawal and who do not have valid existing rights may be considered in trespass and can be held liable for trespass damages. In addition, trespassers may be fined and sentenced to a term in jail.

MINERAL PATENTS

A patented mining claim is one for which the Federal Government has passed its title to the claimant, making it private land. A person may mine and remove minerals from a mining claim without a mineral patent. However, a mineral patent gives the owner exclusive title to the locatable minerals. In most cases, it also gives the owner title to the surface and other resources. Requirements for filing mineral patent applications may be found in 43 CFR 3860 and BLM State Offices.

Mineral patents can be issued for lode and placer claims and mill sites, but not for tunnel sites.

Patenting requires the mining claimant to demonstrate the existence of a valuable mineral deposit that satisfies the prudent man and marketability tests (discovery). In addition, the applicant needs to (1) have the claim surveyed (if it is a lode claim, a claim described by metes and bounds, or a claim situation on unsurveyed land) by a mineral surveyor selected from a roster maintained by the BLM State Office, (2) post a "notice of intent to patent" on the claim or site and publish it in a local newspaper for a 60-day period, (3) pay the BLM a nonrefundable $250 application fee (and an additional $50 filing fee for each

additional claim/site in the application), (4) show the BLM evidence of a right of title to the claim or site, (5) show the BLM proof of discovery of a valuable mineral deposit, and (6) show the BLM proof that not less than $500 worth of development work or improvements have been made to benefit each claim.

A Federal mineral examiner will examine the application and the claim(s) to verify that a discovery of a valuable mineral has been made. If all the requirements of the mining laws and regulations have been satisfied, the law allows the applicant to purchase the claim(s) or site(s) at the following rates: lode claims at $5 per acre, placer claims at $2.50 per acre, custom mill sites and mill sites associated with lode claims at $5 per acre, and mill sites associated with placer claims at $2.50 per acre.

THE APPROPRIATE BLM STATE OFFICE IS THE ONLY OFFICIAL FILING OFFICE FOR THE FEDERAL GOVERNMENT, except for the BLM Fairbanks Support Center in Alaska, which is also an acceptable filing office (see Figure 3). See Figure 4 for filing and patenting fees.

BLM LAND AND MINERAL RECORDS

The Federal Government office with the most complete set of land and mineral records for Federal lands in a particular State is the BLM STATE OFFICE. The BLM State Office is also the only office in which the actual hard copy mining claim records are on file and available for public inspection.

The Forest Service does not keep the official land and mineral records for the National Forests.

Federal land records include land status plats (i.e., Master Title Plats or MTPs), land survey notes, and mineral survey notes and maps. Mining claim records include the actual hard copy files, organized by mining claim serial number and microfiche abstracts available in four separate

formats. Formats for the microfiche include a geographic index by legal description, a claim name index, a claimant name index, and a BLM mining claim serial number index. Also, the BLM publishes a series of multicolored surface and mineral management maps (except for Alaska). These maps depict the ownership pattern of Federal lands. They may be purchased at most BLM offices.

MORE INFORMATION

Mining Claims, Mining Plans, and Lands Open to Mining

BLM: The BLM has the primary responsibility for administering the laws and regulations regarding the disposal of locatable minerals from all federally administered lands. The BLM's statutory authority is derived from the Mining Law of 1872, as amended (30 U.S.C. 22 et seq.), the original public land authority in 43 U.S.C. 2, 1201 and 1457, and FLPMA (43 U.S.C. 1701 et seq.). These statutes, together with the regulations (43 CFR 3800) and numerous judicial and administrative decisions that have interpreted them make up the body of the mining law system. The law itself may be examined in most BLM State Offices or in public libraries. For information concerning BLM regulations and public lands open to mining in specific areas, contact the proper BLM State or local office. The BLM State Office locations are listed at the back of this pamphlet.

Forest Service: For information regarding Federal land within the National Forest System and Forest Service surface management regulations (36 CFR 228{A}), contact the appropriate Forest Service Regional or local Ranger District Office. Forest Service Regional Office locations are also listed at the back of this pamphlet.

State: Information on State and local requirements and cooperative agreements between the State, the BLM, and the Forest Service may be obtained at local BLM and Forest Service offices. Otherwise, contact the appropriate State or local agency.

Geology and Minerals, Topographic Maps, and Mining Technology

U.S. Geological Survey: The Interior Department's Geological Survey (GS) publishes many topographic maps and geologic maps and reports. The central source of information about these maps and related materials is the Earth Science Information Center, Geological Survey, National Center, Reston, Virginia 22092. Maps and reports are available for purchase from the Branch of Distribution, Box 25286, Geological Survey, Federal Center, Denver, Colorado 80225. In addition, GS publications can be obtained over-the-counter at the Earth Science Information Centers in Alaska (2), California (3), Colorado (1), Utah (1), Virginia (1), Washington (1), and Washington, DC (1).

State: Information concerning State mining laws and regulations that supplement the Mining Law of 1872, as amended, plus information concerning the geology and minerals of specific areas in a State, can be obtained from State geologists, State geological surveys, or State mining departments.

STATE OFFICES
BUREAU OF LAND MANAGEMENT
U.S. DEPARTMENT OF THE INTERIOR

ALASKA
Bureau of Land Management
Public Room
222 West 7th Avenue, No. 13
Anchorage, AK 99513-7599
907-271-5960

ARIZONA
Bureau of Land Management
3707 North 7th Street
P.O. Box 16563
Phoenix, AZ 85011
602-650-0528

EASTERN STATES
Bureau of Land Management
Resources Use, Planning,
and Protection
7450 Boston Boulevard
Springfield, VA 22153
703-440-1727

CALIFORNIA
Bureau of Land Management
Public Room
2800 Cottage Way, E-2841
Sacramento, CA 95825
916-979-2800

COLORADO
Bureau of Land Management
2850 Youngfield Street
Lakewood, CO 80215-7093
303-239-3600

IDAHO
Bureau of Land Management
Public Room
3380 Americana Terrace
Boise, ID 83706
208-384-3000

MONTANA, NORTH & SOUTH DAKOTA
Bureau of Land Management
Public Room
222 North 32nd Street
P.O. Box 36800
Billings, MT 59107-2904
406-255-2882

NEVADA
Bureau of Land Management
Public Room
850 Harvard Way
Reno, NV 89520-0006
702-785-6500

NEW MEXICO
Bureau of Land Management
1474 Rodeo Drive
Santa Fe, NM 87505-0115
505-438-7400

OREGON AND WASHINGTON
Bureau of Land Management
1515 S.W. 5th Avenue
P.O. Box 2965
Portland, OR 97208-2965
503-952-6001

UTAH
Bureau of Land Management
Public Room
324 South State Street
P.O. Box 45155
Salt Lake city, UT 84145-0155
801-55539-4001

WYOMING AND NEBRASKA
Bureau of Land Management
5353 Yellowstone Road
P.O. Box 1828
Cheyenne, WY 82003
307-775-6256

HEADQUARTERS OFFICE
Bureau of Land Management
1849 C St., NW., LS-510
Washington, DC 20240-0001
202-452-0350

REGIONAL OFFICES
FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Forest Service, USDA
Northern Region (R-1)
Federal Building
P.O. Box 7669
Missoula, MT 59807-7669
406-329-3511

Forest Service, USDA
Rocky Mountain Region (R-2)
740 Simms Street
P.O. Box 25127
Lakewood, CO 80225
303-275-5350

Forest Service, USDA
Pacific Southwest Region (R-5)
630 Sansome Street
San Francisco, CA 94111
415-705-2874

Forest Service, USDA
Pacific Northwest Region (R-6)
333 S.W. 1st Avenue
P.O. Box 3623
Portland, OR 97208
503-326-3651

Forest Service, USDA
Southern Region (R-8)
1720 Peachtree Road, NW.
Atlanta, GA 30367
404-347-2384

Forest Service, USDA
Alaska Region (R-10)
P.O. Box 21628
Juneau, AK 99802-1628
907-586-8863

Forest Service, USDA
Southwestern Region (R-3)
Federal Building
517 Gold Avenue, SW.
Albuquerque, NM 87102
505-842-3292

Forest Service, USDA
Intermountain Region (R-4)
Federal Building
324 25th Street
Ogden, UT 84401-2310
801-625-5149

WASHINGTON, DC OFFICE:
Forest Service, USDA
201 14th & Independence Ave., SW
P.O. Box 96090
Washington, DC 20090-6090
202-205-1760

U.S.GOVERNMENT PRINTING OFFICE: 1996-776-268

BLM LIBRARY
BLDG 50, ST-150A
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, COLORADO 80225